

HOUSE BILL 160

Q7
HB 1289/08 – W&M

0lr1189
CF SB 155

By: **Delegate Malone**
Introduced and read first time: January 20, 2010
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Estate Tax – Exclusion for Family Farm Subject to Agricultural**
3 **Preservation Easements**

4 FOR the purpose of altering the determination of the Maryland estate tax under
5 certain circumstances to exclude from the value of the gross estate the value of
6 certain real property subject to certain agricultural preservation easements;
7 providing for the application of this Act; and generally relating to the Maryland
8 estate tax.

9 BY repealing and reenacting, with amendments,
10 Article – Tax – General
11 Section 7–309(b)(1) and (2)
12 Annotated Code of Maryland
13 (2004 Replacement Volume and 2009 Supplement)

14 BY adding to
15 Article – Tax – General
16 Section 7–309(c)
17 Annotated Code of Maryland
18 (2004 Replacement Volume and 2009 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Tax – General**

22 7–309.

23 (b) (1) Except as provided in paragraphs (2) through (7) of this subsection
24 **AND SUBSECTION (C) OF THIS SECTION**, after the effective date of an Act of



1 Congress described in subsection (a) of this section, the Maryland estate tax shall be
2 determined using:

3 (i) the federal credit allowable by § 2011 of the Internal
4 Revenue Code as in effect before the reduction or repeal of the federal credit pursuant
5 to the Act of Congress; and

6 (ii) other provisions of federal estate tax law as in effect on the
7 date of the decedent's death.

8 (2) Except as provided in paragraphs (3) through (7) of this subsection
9 **AND SUBSECTION (C) OF THIS SECTION**, if the federal estate tax is not in effect on
10 the date of the decedent's death, the Maryland estate tax shall be determined using:

11 (i) the federal credit allowable by § 2011 of the Internal
12 Revenue Code as in effect before the reduction or repeal of the federal credit pursuant
13 to the Act of Congress; and

14 (ii) other provisions of federal estate tax law as in effect on the
15 date immediately preceding the effective date of the repeal of the federal estate tax.

16 **(C) (1) IN THIS SUBSECTION, "CHILD" AND "PARENT" HAVE THE**
17 **MEANINGS STATED IN § 7-203(B) OF THIS TITLE.**

18 **(2) THE MARYLAND ESTATE TAX SHALL BE DETERMINED BY**
19 **EXCLUDING FROM THE VALUE OF THE GROSS ESTATE THE VALUE OF ANY REAL**
20 **PROPERTY THAT:**

21 **(I) IS SUBJECT TO A PERPETUAL AGRICULTURAL**
22 **PRESERVATION EASEMENT THAT HAS BEEN GRANTED TO:**

23 **1. THE MARYLAND AGRICULTURAL LAND**
24 **PRESERVATION FOUNDATION; OR**

25 **2. A LOCAL AGRICULTURAL LAND PRESERVATION**
26 **PROGRAM THAT HAS BEEN APPROVED BY THE MARYLAND AGRICULTURAL**
27 **LAND PRESERVATION FOUNDATION;**

28 **(II) IS DETERMINED BY THE DEPARTMENT OF**
29 **ASSESSMENTS AND TAXATION, AT THE TIME OF THE TRANSFER, TO BE**
30 **ACTIVELY USED FOR FARM OR AGRICULTURAL PURPOSES AS PROVIDED UNDER**
31 **§ 8-209 OF THE TAX – PROPERTY ARTICLE; AND**

32 **(III) PASSES FROM THE DECEDENT TO OR FOR THE USE OF:**

- 1 **1. A SPOUSE, PARENT, OR GRANDPARENT OF THE**
2 **DECEDENT;**
- 3 **2. A CHILD OF THE DECEDENT OR A LINEAL**
4 **DESCENDANT OF A CHILD OF THE DECEDENT;**
- 5 **3. A SPOUSE OF A CHILD OF THE DECEDENT OR A**
6 **SPOUSE OF A LINEAL DESCENDANT OF A CHILD OF THE DECEDENT; OR**
- 7 **4. A BROTHER OR SISTER OF THE DECEDENT.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 July 1, 2010, and shall be applicable to decedents dying after December 31, 2009.